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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

STATE OF ALASKA,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Defendant.

Case No. 3:24-cv-00084-SLG

JOINT MOTION TO STAY ADMINISTRATIVE RECORD BRIEFING

Plaintiff and Defendant (the “Parties”) jointly move to stay potential administrative record briefing to allow the Parties more time to discuss potential record supplementation in this case and to seek to coordinate briefing of potential motions to supplement the administrative record with the two related cases that also challenge the January 2023 Final Determination of the U.S. Environmental Protection Agency Pursuant to Section 404(c) of the Clean Water Act [for the] Pebble Deposit Area, Southwest Alaska (“Final Determination”).¹ The Parties propose to file a status report with the Court regarding potential motions to supplement the administrative record on December 13, 2024. In support of this joint motion, the Parties state further as follows.

1. On April 11, 2024, Alaska filed the Complaint in this case, challenging EPA’s Final Determination. ECF 1. EPA filed its Answer to the Complaint on June 24, 2024. ECF 18.

2. On August 2, 2024, EPA filed its certified index of the documents comprising its administrative record and served the record on Alaska, excluding materials potentially subject to copyright protection. ECF 49. EPA’s administrative record contains approximately 40,000 documents, comprising approximately 500,000 pages. ECF 49-2.

3. On September 17, 2024, this Court granted Alaska’s motion to stay these proceedings until after the Court ruled on EPA’s Motion for Protective Order regarding materials potentially subject to copyright protection in EPA’s record. *See* ECF 72. In that

¹ The two related cases are *Northern Dynasty Minerals Ltd. v. United States Environmental Protection Agency*, Case No. 3:24-cv-00059-SLG, and *Iliamna Natives Ltd., et al. v. Environmental Protection Agency, et al.*, Case No. 3:24-cv-00132-SLG. Motions to stay briefing regarding potential supplementation of EPA’s record also have been or are expected to be filed in the two related cases.

order, this Court ordered that the parties “confer and report back to the Court about scheduling matters, including a coordinated briefing schedule and potential consolidation with related cases” *Id.* at 2. The Parties filed separate status reports containing different proposals, but have now reached agreement that this Court should stay the schedule for briefing a potential motion to supplement the record, as discussed in this joint motion.

4. On October 11, 2024, EPA served on Plaintiff the materials potentially subject to copyright protection in the administrative record. Plaintiff currently is reviewing the record, and the parties expect to begin conferring shortly regarding any requests from Plaintiff to supplement that record.

5. This Court has stated that it intends to consolidate the three related matters that challenge the Final Determination. *See* ECF 82.

6. It would be beneficial to stay briefing of a potential motion to supplement the record in this case to allow the Parties more time to discuss potential supplementation and to seek to develop a coordinated schedule for potential motions to supplement (if any are required) in the three related cases. The Parties would benefit from the additional time to confer and may be able to narrow or eliminate the issues presented to this Court in this matter. In addition, EPA expects to require time to confer with the plaintiffs in the related cases regarding potential supplementation, and it likely would be more efficient for the Parties and the Court to address a motion to supplement the administrative record in this matter under the same schedule as any such motions in the related cases.

7. Intervenor-Defendants have represented to undersigned counsel for Defendant that Intervenor-Defendants do not oppose the relief sought in this motion.

8. Accordingly, there is good cause to stay administrative record briefing in this case. If this joint motion is granted, the Parties would file a status report with the Court regarding potential briefing of a motion to supplement the administrative record on December 13, 2024.

9. A proposed order granting this joint motion is being filed herewith.

Respectfully submitted on November 7, 2024,

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